

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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SHANNON RAY, KHALA TAYLOR, PETER  
ROBINSON, KATHERINE SEBBANE, and  
RUDY BARAJAS Individually and on  
Behalf of All Those Similarly  
Situating,

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION, an unincorporated  
association,

Defendant.

No. 1:23-cv-00425 WBS CSK

ORDER

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After meeting and conferring, the parties have filed three requests (Docket Nos. 91, 93, 101) to seal or redact various information in the parties' briefs and evidence in connection with plaintiffs' pending motion for class certification (Docket No. 85) and defendant's pending Daubert motion (Docket No. 95).

A party seeking to seal a judicial record bears the

1 burden of overcoming a strong presumption in favor of public  
2 access. See Kamakana v. City & County of Honolulu, 447 F.3d  
3 1172, 1178 (9th Cir. 2006). The party must "articulate  
4 compelling reasons supported by specific factual findings that  
5 outweigh the general history of access and the public policies  
6 favoring disclosure, such as the public interest in understanding  
7 the judicial process." Id. at 1178-79 (citation omitted). In  
8 ruling on a motion to seal, the court must balance the competing  
9 interests of the public and the party seeking to keep records  
10 secret. See id. at 1179.

11 Both parties seek to seal or redact financial  
12 information obtained from the NCAA Membership Financial Reporting  
13 System, which defendant argues should not be disclosed because it  
14 would reveal financial information about third-party universities  
15 that was disclosed with the expectation of confidentiality. To  
16 the extent the information at issue discloses financial  
17 information in connection with specific universities, the  
18 requests to seal or redact will be granted as set out below.  
19 However, much of the information sought to be sealed consists of  
20 figures aggregated or averaged from across several NCAA schools.  
21 The requests to seal will not be granted insofar as the financial  
22 information is not connected to a specific university or  
23 individual.

24 The parties next seek to seal other matter concerning  
25 third-party universities, including financial information,  
26 employee records, and documents pertaining to internal  
27 operations. Because these documents contain potentially  
28 sensitive information concerning non-parties, much of which was

1 disclosed with the expectation of confidentiality, the requests  
2 to seal this information will be granted as set out below.

3 Defendant also seeks to seal an internal NCAA memo from  
4 2000 summarizing comments received from several universities  
5 concerning a then-pending policy proposal (plaintiffs' Exhibit  
6 32) and an internal email chain from 2018 between NCAA officials  
7 discussing policy changes (plaintiffs' Exhibit 33), arguing that  
8 this information could harm its competitive standing or impair  
9 its operations. However, in light of plaintiffs' objection to  
10 the sealing of these documents, and because defendant has failed  
11 to sufficiently explain how disclosure of these documents could  
12 harm the NCAA, the court will deny defendant's request.

13 Finally, defendants indicate that they did not file  
14 certain documents on the public docket due to their status as  
15 "provisionally confidential" pursuant to the parties' stipulated  
16 protective order. No reasoning has been provided and no further  
17 requests have been made in connection with these documents.  
18 Accordingly, the request to seal will be denied as to these  
19 documents.

20 Pursuant to Kamakana, 447 F.3d 1178, the court orders  
21 as follows with respect to the requests to seal:

22 I. Plaintiffs' First Request to Seal (Docket No. 91)

23 A. **The request is DENIED as to:**

- 24 1. All requested redactions in Plaintiffs' Motion for  
25 Class Certification
- 26 2. All requested redactions in Exhibit 1 (Ashenfelter  
27 Report)
- 28 3. Exhibit 32 (NCAA\_SMARTCOLON\_0179751)

4. Exhibit 33 (NCAA\_SMARTCOLON\_0140536)

Plaintiff shall file these documents in their unredacted form on the public docket within five days.

**B. The request is GRANTED as to:**

1. Exhibit 34 (COLON\_CONFERENCE\_0000206202)

Plaintiff shall file this document under seal within five days.

**II. Plaintiffs' Second Request to Seal (Docket No. 101)**

**A. The request is DENIED as to:**

1. All requested redactions in Plaintiff's Reply Brief in Support of Motion for Class Certification
2. All requested redactions in Plaintiff's Opposition to Defendants' Daubert Motion

Plaintiff shall file these documents in their unredacted form on the public docket within five days.

**B. The request is GRANTED as to:**

1. Requested redaction at page 4, footnote 9 of the Ashenfelter Declaration

Plaintiff shall file the redacted version on the publicly available docket within five days and file the unredacted version under seal within five days.

**III. Defendant's Request to Seal (Docket No. 93)**

**A. The request is DENIED as to:**

1. Requested redactions in the following portions of defendant's Opposition to Plaintiffs' Motion for Class Certification:

a. Page 13, lines 17-18

b. Page 14, line 2

2. Requested redactions in the following portions of the Lehmann Declaration:

- a. Page 33, paragraph 58
- b. Page 73, Exhibits 10A, 10B
- c. Page 74, Exhibits 10C, 10D
- d. Page 98, Exhibit 13
- e. Page 98-99, paragraph 163

3. Documents categorized as “provisionally confidential” pursuant to the parties’ protective order, unless otherwise subject to sealing under this Order.

**B. The request is GRANTED as to:**

1. Requested redactions in the following portions of defendant’s Opposition to Plaintiffs’ Motion for Class Certification:

- a. Page 11, lines 23-25
- b. Page 15, lines 13-15, 18-19
- c. Page 16, lines 2, 4-5
- d. Page 35, lines 13-15
- e. Page 93, lines 24, 27
- f. Page 94, line 2

2. Requested redaction at page 16, line 8 of defendant’s Daubert motion

3. Redaction of email addresses and employee IDs in Exhibit B to the Hamilton Declaration

4. Requested redaction at page 8, lines 2-3 of the McCreddie Declaration

5. Requested redactions in the following portions of

the Lehmann Declaration:

- a. Page 25, footnote 54
- b. Page 30, Exhibit 6A
- c. Page 31, Exhibits 6B, 6C
- d. Page 32, paragraph 54
- e. Page 34, Exhibit 7
- f. Page 34, paragraph 60
- g. Page 35, paragraphs 62-63
- h. Page 38, footnote 78
- i. Page 49, paragraph 84
- j. Page 49, footnotes 104-105
- k. Page 56, paragraph 93
- l. Page 56, footnotes 128-129
- m. Page 57, paragraph 94
- n. Page 57, footnote 134
- o. Page 58, paragraph 95
- p. Page 58, footnote 138
- q. Page 63-64, paragraph 105
- r. Page 75, paragraph 125
- s. Page 84, paragraph 136
- t. Page 84, footnotes 196-197
- u. Page 96, paragraph 158
- v. Page 99, paragraph 165
- w. Page 99-100, footnote 236
- x. Page 103, footnote 250
- y. Page 104, footnote 251

6. Requested redactions in the following portions of  
the Morris Declaration:

- 1 a. Page 4, paragraph 7
- 2 b. Page 5, paragraph 9
- 3 c. Page 6, paragraph 11-15
- 4 d. Page 7, paragraph 16-17
- 5 7. Exhibit 7 to McCreadie Opposition Brief
- 6 Declaration (COLON\_SCHLS\_00016398)
- 7 8. Exhibit 19 to McCreadie Opposition Brief
- 8 Declaration (COLON\_CONFERENCE\_0000208854)
- 9 9. Exhibit 23 to McCreadie Opposition Brief
- 10 Declaration (COLON\_SCHLS\_0000013529)
- 11 10. Exhibit 24 to McCreadie Opposition Brief
- 12 Declaration (COLON\_SCHLS\_0000001726)
- 13 11. Exhibit 25 to McCreadie Opposition Brief
- 14 Declaration (COLON\_SCHLS\_0000001818)
- 15 12. Exhibit A to Hamilton Declaration (NCAA\_ SC\_
- 16 SUBPOENA\_ 0000033)
- 17 13. Exhibit A to Varley Declaration (COLON\_SCHLS\_
- 18 0000004635)
- 19 14. Exhibit B to Varley Declaration
- 20 (SMART\_SCHLS\_0000003561)
- 21 15. Exhibit C to Varley Declaration
- 22 (COLON\_SCHLS\_0000016799)
- 23 16. Exhibit A to Wombacher Declaration
- 24 (COLON\_SCHLS\_0000011616)
- 25 17. Exhibit B to Wombacher Declaration (COLON\_SCHLS\_
- 26 0000011405)
- 27 18. Exhibit C to Wombacher Declaration (SMART\_SCHLS\_
- 28 0000001876)

1           Where the request to seal has been **denied as to an**  
2 **entire document**, defendant shall file the document in its  
3 unredacted form on the public docket within five days.

4           Where the request to seal has been **granted as to an**  
5 **entire document**, defendant shall file the document under seal  
6 within five days.

7           Where the request to seal has been **granted as to**  
8 **specific redactions**, defendant shall redact the document in  
9 accordance with this Order, file the redacted version on the  
10 publicly available docket within five days, and file the  
11 unredacted version under seal within five days.

12           Upon a showing of good cause, this Order is subject to  
13 reconsideration or modification at any time upon the request of  
14 any interested party.

15           IT IS SO ORDERED.

16 Dated: February 14, 2025



WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE